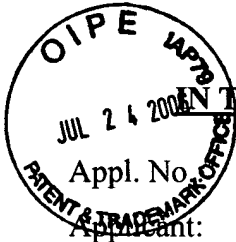


Appeal Brief
Appl. No.: 10/610,939
Submitted: July 24, 2006



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appl. No. 10/610,939

Confirmation No.: 2522

Applicant: Fuentes

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Honorable Commissioner
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Alexandria, Virginia 22313-1450

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**APPELLANT'S BRIEF
IN RESPONSE TO OFFICE ACTION UNDER 37 C.F.R. § 1.192**

This brief is filed in triplicate in support of the previously filed Notice of Appeal, which was filed May 22, 2006, which appealed from the decision of the examiner dated November 22, rejecting claims 15-29. The fee required under 37 C.F.R. § 1.17(c) for filing a brief in support of an appeal is provided in the Transmittal of Appeal Brief filed herewith.

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1. REAL PARTY IN INTEREST

The real party in interest in this appeal is International Business Machines Corporation (IBM).

2. RELATED APPEALS AND INTERFERENCES

With respect to other appeals or interferences that will directly affect, or be directly affected by, or have a bearing on the Board's decision in the pending appeal, there are no such appeals or interferences.

3. STATUS OF CLAIMS

Claims 15-29 are pending in this application; claims 15-29 have been finally rejected; claims 15-29 have been appealed. No claims have been allowed.

4. STATUS OF AMENDMENTS

No current amendments are pending.

5. SUMMARY OF THE CLAIMS

Claim 15 describes a method for configuring and assembling a medical workstation for one patient based on the particular medical equipment needed by that patient and then disassembling that medical workstation and reconfiguring and reassembling that medical workstation based on the particular needs of another patient. In this method, the first step is to determine the medical equipment needs for a particular patient. After determining the specific equipment, the amount of space required by each piece of equipment is determined. At this point, a compartment configuration is designed containing spaces to store each piece of equipment. Once the compartment configuration designed for the workstation is completed, the next step is to create the various spaces within the compartment design using variable length dividers. After placing the particular equipment in the compartments, the final step is to connect the equipment as needed to a power source through channels in the rear of the medical workstation.

Claim 22 describes method for providing a medical workstation capable of being configured and reconfigured to house medical equipment. In this method, the first step is to determine the medical equipment needs for a particular patient. At this point, a compartment configuration is designed containing spaces to store each piece of medical equipment. Once the compartment configuration designed for the workstation is completed, the next step is to create the various spaces within the compartment design by selecting variable length horizontal dividers to be used to from the spaces within the compartment, positioning one or more vertical dividers in the workstation as needed to create storage spaces that will house the medical equipment for a patient and inserting the selected horizontal dividers into the workstation compartment to form the storage spaces. The determined medical equipment is then positioned in the compartment spaces. The final step is to connect the medical equipment to a power source by channeling wiring from the equipment through one or more back compartments in the medical workstation to the power source.

Claim 27 describes a method for configuring and reconfiguring a medical workstation for housing medical equipment of a patient. The first step is to determine the medical equipment needed for the particular patient. The next step is to design a compartment configuration containing spaces to store each piece of equipment. At this point, various spaces are created within the compartment design by positioning one or more vertical dividers in the workstation as needed to create store spaces that will house the medical equipment for a patient. Medical equipment is then positioned in the compartments. The next step is to connect the medical equipment to a power source by channeling wiring from the equipment through one or more back compartments in the medical workstation to the power source. The workstation is then disassembled after completion of use for a particular patient. Finally, the workstation is reassembled for use by another patient by again determining the needed medical equipment, designing a compartment configuration, creating storage spaces, storing the equipment in these spaces and connecting the equipment.

6. ARGUMENTS

6.A. – Was 35 U.S.C. § 103 properly applied in a rejection of claims 15-19 and 21-26 as being unpatentable over Stucki (US Patent 3,272,581) and in further view of Ellman et al (US 5,518,310).

Background of the present invention

The present invention provides a method to design and construct a mobile medical workstation containing the medical equipment needed by a patient. This station is specifically constructed based on the particular medical equipment of the patient. When the patient no longer needs the workstation, it can be disassembled and reassembled for the specific equipment of another patient. With this method, medical workstations can be constructed such that the equipment can be neatly stored with the current mess of cords and various pieces of equipment being scattered all around the patient.

Background of Stucki (3,272,581b)

Stucki describes an improved storage rack. The rack has a modular construction to afford cells of variable width and height, but a given depth. Changes can occur without the need for knocking down the entire frame.

Background for Ellman (5,518,310)

Ellman describes a mobile cart having a platform for supporting at least a commercially available electro surgical instrument or apparatus and a smoke evacuator system. Preferably, the mobile cart contains further means for housing additional accessories. The cart is constructed to provide a protected region within which electrical wiring can be run to ensure the wire does not interfere with the surgeon while performing an electro surgical procedure.

Distinction between Inventions

Stucki describes an improved storage rack. The rack has a modular construction to afford cells of variable width and height, but a given depth. Changes can occur without the need for knocking down the entire frame. Ellman describes a mobile cart having a platform for supporting at least a commercially available electro surgical instrument or apparatus and a smoke evacuator system. Preferably, the mobile cart contains further means for housing additional accessories. The cart is constructed to provide a protected region within which electrical wiring can be run to ensure the wire does not interfere with the surgeon while performing an electro surgical procedure.

Analysis of the Examiner's rejections

Applicant submits that both references do contain features of the present invention. However, to establish a prima facie case of obviousness there must be some suggestion of teaching to combine the references. Further a combination of the references must work and must work in the same manner as the invention under examination. Finally, there must not be a teaching away from the invention under examination.

Applicant submits that there is no suggestion of teaching to combine the cited references. Stucki describes a storage rack having modular construction. This modular construction provides the ability to reconfigure the storage rack. Stucki does not provide for or discuss storage of equipment that needs to be connected to a power source (the channeling of electrical wires). Further, Stuck rack appears to be designed to be stationary

Ellman describes a mobile cart for an electro surgical instrument having a fixed construction. Ellman has a top platform surface for the electro surgical instrument. There are no compartments described in Ellman. Further, there is no discussion of any intention of reconfiguring this cart. Although Ellman does describe a system for channeling electrical wires through the cart, this description is for a fixed configuration. In this configuration, openings exist in the outer wall of the cart to facilitate channeling of wires. In addition, two walls for a space through which wires travel. Ellman does

describe a wiring channel. However, this channel does not account for the wiring of equipment contained in compartments. As mentioned, Ellman does not discuss having equipment in compartments. Ellman describes a specific channel for wires from the electro surgical instrument placed on the top platform of the cart. This specific channel routes the wires over the top of the outer wall, through an opening in the outer wall such that the wiring down the opening between the walls and back into the front portion of the cart. With the approach of Ellman, it time there is a reconfiguration, it would be necessary to develop a new channel for routing wires. Applicant's present invention does not channel wiring back into the from part of the cart.

Ellman does not have compartments to place other equipment. Further, Ellman does not teach or suggest a way to have a common channel for wires from compartments in a multiple configuration cart. It is uncertain from Ellman, how to create a wiring channel for a multiple configuration cart.

To establish a prima facie case of obviousness, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art to modify the reference or to combine reference teachings (MPEP 706.02(j)). Obviousness cannot be established by combining the teachings of the prior art to produce the claimed invention, absent some teaching, suggestion, or incentive supporting the combination. In other words, elements of separate patents cannot be combined where there is no suggestion of such combination. Panduit Corp. v. Dennison Mfg. Co. (Fed. Cir 1987). In the present case, there is no teaching or suggestion of the combination of elements from Stucki and Ellman. Further, the descriptions of the devices in these references have features that are opposite (modular vs. fixed construction, compartments vs. a top surface, stationary vs. mobile). These opposite features teach away from a combination of the references.

Obviousness also takes into account secondary considerations. In this case, the problems associated with the convenient use of multiple pieces of equipment in a care giving environment is well known in the health care industry. Any one visiting a hospital room can see the many cords from the equipment spread/scattered all around the patient's bed. Further, the caregiver is constantly moving from bedside to bedside to monitor equipment. Although the Ellman cart was patented in 1996 and Stucki in 1966, at the time that Applicant filed this application and even today, no one has brought forth a solution this problem in concept or design that is similar to Applicant's invention. Applicant submits that this invention meets a long felt need in the health care industry.

For at least these reasons, Applicants respectfully submit that the art of record fails to render obvious any of Applicants' claims in the present invention. Moreover, Applicants respectfully submit that none of the art of record teaches Applicants' claimed invention. Further, none of the art of record mentions or suggests steps incorporated in Applicants' present invention. Applicants, therefore, request withdrawal of the rejection

of Applicants' claims under 35 U.S.C. § 103 based on the cited art and allow Applicants' claims.

6.B. – Was 35 U.S.C. § 103(a) properly applied in a rejection of claims 27-29 as being unpatentable over stuck Stucki (US Patent 3,272,581) and in Ellman et al (US 5,518,310) in further view of Thompson et al (US Patent 6,359,217).

Thompson provides a cabinet for a workspace definition system having a housing with walls and a top. The workspace has an electrical receptacle mounted therein and is accessible from the outside of the cabinet. The electrical data conduit is thereby passed into the walls and the interior chamber of the cabinet in a concealed manner to provide operability to components stored within or adjacent to the cabinet.

Although Thompson does describe the routing of electrical conduit in a cabinet, the Thompson design does not provide for the ability to reconfigure the design of the cabinet, but retain the same routing capabilities. In the present invention, the routing of the electrical conduit remains the same regardless of the configuration of the cabinet. The routing in Thompson is specifically tied to the workstation configuration (See Figure 10B).

7. CONCLUSION

Applicants submit that all of the pending claims are in condition for allowance. Applicants further submit that the amendments as discussed with the Examiner were for the purpose of further defining the impersonator programs of the present invention. Applicants believe that no additional search should be required in view of the type of amendments Applicants made to the claims. Therefore, withdrawal of the rejections and passage to issuance is respectfully requested.

In view of the above arguments, it is respectfully urged that the rejection of the claims should not be sustained.

Respectfully Submitted,



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APPENDIX I CLAIMS

Claim 15 (Previously presented) A method for reconfiguring a medical workstation comprising the steps of:

- determining the equipment needed for a particular patient;
- determining an amount of space required by each piece of equipment;
- designing a compartment configuration containing spaces to store each piece of equipment; and
- creating the various spaces within the compartment design using variable length dividers; and
- connecting the equipment as needed to a power source through channels in the rear of the medical workstation.

Claim 16 (Original) The method as described in claim 15 further comprising before said creating step the step of selecting the variable length dividers to be used to create the various spaces within the compartment.

Claim 17 (Previously presented) The method as described in claim 15 further comprising the step of disassembling said workstation after completion of use for a particular patient.

Claim 18 (Original) The method as described in claim 15 further comprising the step of connecting said workstation to the proper wall connections for a hospital application.

Claim 19 (Original) The method as described in claim 15 further comprising the step placing each piece of medical equipment into the of designed compartment for that piece of equipment.

Claim 20 (canceled)

Claim 21 (Previously presented) The method as described in claim 16 wherein said creating step further comprises repositioning one or more vertical dividers contained in the medical workstation as needed to create the dimensions for the spaces that will contain the medical equipment for the patient.

Claim 22 (Previously presented) A method for providing a medical workstation capable of being configured and reconfigured to house medical equipment comprising the steps of:

- determining medical equipment needed for a particular patient;

- designing a compartment configuration containing spaces to store each piece of equipment;

- creating the various spaces within the compartment design by selecting variable length horizontal dividers to be used to form the spaces within the compartment, positioning one or more vertical dividers in the workstation as needed to create storage spaces that will house the medical equipment for a patient and inserting the selected horizontal dividers into the workstation compartment to form the storage spaces;

- positioning the determined medical equipment in the compartment spaces; and

- connecting the medical equipment to a power source by channeling wiring from the equipment through one or more back compartments in the medical workstation to the power source.

Claim 23 (Previously presented) The method as described in claim 22 wherein said connecting step further comprising channeling the wiring from the medical equipment to a compartment in the back of the workstation that contains a connection to a power source.

Claim 24 (Previously presented) The method as described in claim 22 further comprising after said connecting step, the step of disassembling the configured workstation after completion of use by a particular patient and reassembling the workstation for use by another patient in accordance with said determining, designing, creating, storing and connecting steps.

Claim 25 (Previously presented) A method for configuring and reconfiguring a medical workstation for housing medical equipment of a patient comprising the steps of:

- determining medical equipment needed for the particular patient;

- designing a compartment configuration containing spaces to store each piece of equipment;

- creating the various spaces within the compartment design by positioning one or more vertical dividers in the workstation as needed to create store spaces that will house the medical equipment for a patient;

- positioning the determined medical equipment in the compartment spaces;

- connecting the medical equipment to a power source by channeling wiring from the equipment through one or more back compartments in the medical workstation to the power source;

- disassembling to workstation after completion of use for a particular patient; and

- reassembling the workstation for use by another patient in accordance with said determining, designing, creating, storing and connecting steps.

Claim 26 (Previously presented) The method as described in claim 25 wherein said creating step further comprises selecting variable length horizontal dividers to be used to from the spaces within the compartment and inserting the selected horizontal dividers into the workstation compartment to form the spaces.

Claim 27 (Previously presented) The method as described in claim 15 wherein said connecting step further comprises:

channeling wiring through an opening in an inner wall of the workstation into a back compartment;

channeling wiring through at least one second opening in at least one middle divider such that the wiring is channeled from an upper back compartment to a lower back compartment and to the power source.

Claim 28 (Previously presented) The method as described in claim 27 wherein the power source is within the workstation.

Claim 29 (Previously presented) The method as described in claim 15 wherein said connecting step further comprises:

channeling wiring through an opening in an inner wall of the workstation into a back compartment;

channeling wiring through at least one second opening in at least one middle divider such that the wiring is channeled from an upper back compartment to a lower back compartment; and

channeling wiring out of the workstation through an opening in a back wall of the lower back compartment a power source.